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FISCAL IMPACT STATEMENT

LS 6116

BILL NUMBER: SB 34

NOTE PREPARED: Apr 9, 2009

BILL AMENDED: Apr 9, 2009

SUBJECT: Various Criminal Law Provisions.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR: Rep. C. Lawson

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Assisting a Criminal* – It provides, for purposes of the crime of assisting a criminal, that it is not a defense that the person assisted has not been prosecuted, has not been convicted, or has been acquitted by reason of insanity.
- B. *Court-Ordered Screening Test* – It allows a prosecuting attorney to petition a court to order a defendant charged with the commission of: (1) a potentially disease-transmitting offense; or (2) an offense involving the transmission of a bodily fluid; to submit to a screening test to determine whether the defendant is infected with a dangerous disease. It repeals a similar provision in current law that applies only to screening tests for HIV.
- C. *Habitual Offender Addition* – It lists the offense of dealing in methamphetamine as an unrelated conviction in the law concerning habitual offenders when determining if the state may seek to have a person sentenced as an habitual offender.
- D. *Criminal Code Evaluation Commission* – It establishes the 15-member Criminal Code Evaluation Commission to evaluate the criminal laws of Indiana. It provides that, if the Commission determines changes are necessary or appropriate, the Commission shall make recommendations to the General Assembly for the modification of the criminal laws of Indiana. It requires the Commission to submit a final report to the Legislative Council before November 1, 2011.

(The introduced version of this bill was prepared by the Sentencing Policy Study Committee.)

Effective Date: (Amended) Upon passage; July 1, 2009.

Explanation of State Expenditures: (Revised) *Assisting a Criminal* – This bill should result in a limited increase in the number of new offenders for the Department of Correction (DOC). The current number of offenders who are committed to DOC for this offense is relatively small. And the potential increase is expected to be limited as well. From 2003 to 2007, the number of offenders who were committed to DOC has ranged between 18 and 30.

Felony Level	2003	2004	2005	2006	2007
Class C	6	13	8	4	7
Class D	21	17	18	19	11
Grand Total	27	30	26	23	18

The average time served for offenders released during CY 2007 was 339 days for Class C felonies and 278 days for Class D.

(Revised) *Habitual Offender Addition* – Under current law, a person who has been convicted of dealing in methamphetamine one time may be sentenced as an habitual offender if the person is convicted of two other unrelated felonies as specified in statute. This provision would make this person not eligible for habitual offender enhancement if the person has only one conviction of dealing in methamphetamine. This could reduce the amount of time in incarceration that this person could be sentenced. The additional fixed term for an habitual offender is between the advisory sentence and not more than three times the advisory sentence, with a maximum fixed term of 30 years.

The average expenditure to house an adult offender was \$20,287 in FY 2008 and \$69,223 for a juvenile. (This does not include the cost of new construction.)

(Revised) *Criminal Code Evaluation Commission* – This bill establishes a 15-member study committee consisting of eight legislators, two lay members, and five state employees. The committee is to operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members. The Indiana Criminal Justice Institute shall provide staff support and prepare minutes and the final report. The Legislative Services Agency shall provide advice on legal matters, criminal procedures, and legal research and draft potential legislation.

(Revised) **Background:** The following table shows what qualifies for the various classes of misdemeanors or felonies for assisting a criminal.

Crime	Term of Incarceration
Class A Misdemeanor	Up to one year in county jail.
Class D Felony	Advisory sentence 1.5 years; ranges from 6 months to 3 years.
Class C Felony	Advisory sentence 4 years; ranges from 2 to 8 years.

Explanation of State Revenues: (Revised) *Assisting a Criminal* -- If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fines for both Class D and C felonies is \$10,000. The maximum fine for a Class A misdemeanor

is \$5,000. Criminal fines are deposited in the Common School Fund.

Since all felonies are filed in a circuit, superior, or county courts, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: (Revised) *Assisting a Criminal* -- If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

(Revised) *Court-Ordered Screening Test* -- Depending on the county and the number of crimes prosecuted, this provision could increase the number of hearings that the courts with criminal jurisdiction would be required to perform. The prosecuting attorney has the discretion under this bill to petition the court to hold a hearing to order the tests. The courts would be required to schedule a hearing within 48 hours to determine whether these tests should be ordered. The court would have the discretion to order the tests. Presumably, the costs of these tests would be paid from the court's budget.

Explanation of Local Revenues: (Revised) *Assisting a Criminal* -- If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Legislative Services Agency, Criminal Justice Institute, DOC.

Local Agencies Affected: Trial courts, prosecuting attorneys, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, DOC.

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